

Environmental Protection Agency

§ 39.135

financed by the Bank have been retired.

(5) Revenue plans adequate to assure repayment of principal and interest of the notes or the obligations financed by the Bank are adopted; and

(6) The Administrator is promptly notified whenever it appears that projected annual revenues will be insufficient to meet payments for principal, interest, and operating and maintenance costs. Such notification shall include a description of the steps being taken to remedy the problem.

(c) *Other covenants.* Among other covenants made by the public body in the loan guarantee are the following;

(1) *Application of loan proceeds.* The loan proceeds shall only be applied to the payment of costs associated with the project for which EPA has awarded grant assistance in accordance with § 39.140.

(2) *Payment.* The public body covenants that if amounts adequate for the payment of principal and interest are not available when due and payable, appropriate steps will be taken to levy sufficient additional taxes, fees, or charges and to make such payments in a timely manner.

(3) *Accounts and reports.* The public body shall keep complete and accurate books, records, and accounts relating to the loan, the loan guarantee, and the funds and accounts used to pay the amounts due on the loan. Such books, records, and accounts shall be subject to inspection by the Administrator or the Comptroller General of the United States at reasonable times.

(4) *Status of other encumbrances.* The public body will not on or after the date of execution of the loan guarantee by EPA, create or suffer to be created any lien or charge, which would constitute a lien prior to the lien created to secure the loan. Any bonded indebtedness or liens created by the public body on or after the date of execution of the loan guarantee by EPA and associated with the treatment works being constructed with Federal grant assistance may, at the discretion of the Administrator, be on a parity with the lien of the loan guaranteed by the Administrator.

(d) *Enforcement.* The public body agrees to the enforcement of the fore-

going conditions by the Administrator in a court of appropriate jurisdiction pursuant to any of the remedies provided for under § 39.150, Defaults and remedies, in order to avert an Event of Default.

§ 39.120 Limitation on assistance.

The amount of any grant, loan, loan guarantee, or other assistance available from another Federal agency, a State, or other third parties on reasonable terms shall be deducted from the local share amount before the loan guarantee amount is determined.

§ 39.125 Determination of eligibility for assistance and issuance of guarantee.

(a) The Administrator shall make the following determinations before issuing a loan guarantee:

(1) The project for which the loan guarantee is requested is eligible for grant assistance under Title II of the Act;

(2) The applicant is unable to obtain, on reasonable terms, sufficient credit to finance the local share without such a loan guarantee; and

(3) There is reasonable assurance that the applicant will be able to repay the loan or obligation to the Bank.

(b) If the application is approved, the Administrator will issue the loan guarantee and, subsequent to grant award, will request issuance by the Bank.

(c) If the loan application is disapproved, such disapproval shall be final and conclusive unless appealed within 30 days after receipt of the notice of disapproval pursuant to subpart J, Disputes, of the general grant regulations (40 CFR 30.1100 *et seq.*).

§ 39.130 Determination of reasonable rates.

The Secretary of the Treasury in accordance with the Act shall make a determination of whether financing is available at reasonable rates.

§ 39.135 Loan terms.

(a) *Interest rates.* The interest rate(s), to be charged for each loan shall be determined by the Secretary of the Treasury in accordance with section 6(b) of the Federal Financing Bank Act of 1973.